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Attorneys for the Arizona State Board of Pharmacy

**BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

In the Matter of

**JEFFREY GOLDEN,**

Holder of License No. T010493  
As a Pharmacy Technician Trainee  
In the State of Arizona

Board Case No. 09-0025-PHR

**CONSENT AGREEMENT  
FOR REVOCATION**

**RECITALS**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board") under A.R.S. § 32-1901 *et. seq.*, Jeffrey Golden ("Respondent"), holder of Pharmacy Technician License Trainee Number T010493 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.

1        2.     Respondent understands that he has a right to a public administrative  
2 hearing concerning the above-captioned matter, at which hearing he could present  
3 evidence and cross examine witnesses. By entering into this Consent Agreement,  
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative  
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or  
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7        3.     Respondent affirmatively agrees that this Consent Agreement shall be  
8 irrevocable.

9        4.     Respondent understands that this Consent Agreement or any part of the  
10 agreement may be considered in any future disciplinary action by the Board against him.

11       5.     Respondent understands this Consent Agreement deals with Board  
12 Complaint No. 3557 involving allegations of unprofessional conduct against Respondent.  
13 The investigation into these allegations against Respondent shall be concluded upon the  
14 Board's adoption of this Consent Agreement.

15       6.     Respondent understands that this Consent Agreement does not constitute a  
16 dismissal or resolution of any other matters currently pending before the Board, if any,  
17 and does not constitute any waiver, express or implied, of the Board's statutory authority  
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19       7.     Respondent also understands that acceptance of this Consent Agreement  
20 does not preclude any other agency, subdivision, or officer of this State from instituting  
21 any other civil or criminal proceedings with respect to the conduct that is the subject of  
22 this Consent Agreement.

23       8.     Respondent acknowledges and agrees that, upon signing this Consent  
24 Agreement and returning this document to the Board's Executive Director, he may not  
25 revoke his acceptance of the Consent Agreement or make any modifications to the  
26

1 document regardless of whether the Consent Agreement has been signed by the  
2 Executive Director. Any modification to this original document is ineffective and void  
3 unless mutually agreed by the parties in writing.

4 9. Respondent understands that the Consent Agreement shall not become  
5 effective unless and until adopted by the Board and signed by its Executive Director.

6 10. If a court of competent jurisdiction rules that any part of this Consent  
7 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement  
8 shall remain in full force and effect.

9 11. Respondent understands and agrees that if the Board does not adopt this  
10 Consent Agreement, he will not assert as a defense that the Board's consideration of this  
11 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

12 12. Respondent understands that this Consent Agreement is a public record that  
13 may be publicly disseminated as a formal action of the Board and may be reported as  
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
15 Protection Data Bank.

16 13. Respondent understands that any violation of this Consent Agreement  
17 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
18 1901.01(C)(16), -1927.01(A)(1).

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1 ACCEPTED AND AGREED BY RESPONDENT

2  
3 Dated: \_\_\_\_\_

4 Jeffrey Golden

5 Subscribed and sworn to before me in the County of \_\_\_\_\_, State of \_\_\_\_\_,  
6 this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Jeffrey Golden.

7  
8 NOTARY PUBLIC

9 My Commission expires: \_\_\_\_\_

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for licensing and regulating the  
12 practice of pharmacy in the State of Arizona.

13 2. Respondent holds Arizona Pharmacy Technician Trainee License Number  
14 T010493.

15 3. During all times relevant to this Complaint, Respondent was employed as a  
16 pharmacy technician trainee at CVS Pharmacy #9223 in Phoenix, Arizona (the  
17 "Pharmacy").

18 4. In February 2008, CVS loss prevention personnel interviewed Respondent  
19 concerning a loss of controlled substances. Respondent admitted diverting the following  
20 controlled substances from the Pharmacy: hydrocodone/APAP 10/325 (8,000 tablets),  
21 hydrocodone/APAP 10/500 (4,000 tablets), hydrocodone/APAP 7.5/500 (500 tablets),  
22 hydrocodone/APAP 10/600 (500 tablets), Tussionex (cough syrup with hydrocodone)  
23 (473 ml), diazepam 5 mg (250 tablets), Ambien (zolpidem) 12.5 mg (100 tablets), and  
24 carisoprodol 350 mg (1500 tablets). Respondent admitted to taking the controlled  
25 substances for personal consumption.

1        5.     Respondent further admitted to diverting 100 tablets of Viagra 10 mg to  
2 give to another person.

3        6.     Hydrocodone/APAP is a Schedule III controlled substance. A.R.S. § 36-  
4 2514(A)(5)(d).

5        7.     Cough syrup with hydrocodone is a Schedule III controlled substance.  
6 A.R.S. § 36-2514(A)(5)(d).

7        8.     Diazepam is a Schedule IV controlled substance. A.R.S. § 36-  
8 2515(A)(2)(n).

9        9.     Carisoprodol is a Schedule IV controlled substance. A.R.S. § 36-  
10 2515(A)(5)(a).

11       10.    Zolpidem is a Schedule IV controlled substance. A.R.S. § 36-  
12 2515(A)(2)(xx).

13       11.    Viagra is a prescription-only medication.

14                    **CONCLUSIONS OF LAW**

15       1.     The Board possesses jurisdiction over the subject matter and over  
16 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

17       2.     The Board may discipline a pharmacy technician trainee who has engaged  
18 in unprofessional conduct. A.R.S. § 32-1927.01(A)(1).

19       3.     The conduct described in the Findings of Fact constitutes a violation of  
20 A.R.S. § 13-1802(A)(1) (A person commits theft if, without lawful authority, the person  
21 knowingly controls another person's property with the intent to deprive that other person  
22 of such property). Theft is a crime of moral turpitude. *State v. Superior Court of Pima*  
23 *County*, 121 Ariz. 174, 175-76, 589 P.2d 48, 49-50 (App. 1978) (shoplifting involves  
24 moral turpitude and bears a close relationship to the common law crime of larceny).

1        4.     The conduct described in the Findings of Fact constitutes a violation of  
2 A.R.S. § 13-3406(A)(1) (A person may not knowingly possess or use a prescription-only  
3 drug unless the person obtains the prescription-only drug pursuant to a valid prescription  
4 of a licensed prescriber). Furthermore, a person may not knowingly obtain or procure the  
5 administration of a prescription-only drug by fraud, deceit, misrepresentation or  
6 subterfuge. A.R.S. § 13-3406(A)(6). In either case, such illegal acquisition, possession  
7 or procurement of a prescription-only drug is a class 1 misdemeanor. A.R.S. § 13-  
8 3406(B)(1).

9        5.     The conduct described in the Findings of Fact constitutes a violation of  
10 A.R.S. § 13-3406(A)(7) (A person may not sell, transfer or offer to sell or transfer a  
11 prescription-only drug). Such illegal transfer of a prescription-only drug is a class 6  
12 felony. A.R.S. § 13-3406(B)(2).

13       6.     The conduct described in the Findings of Fact constitutes a violation of  
14 A.R.S. § 36-2531(E) (A person may not knowingly or intentionally acquire or obtain  
15 possession of a controlled substance by means of forgery, fraud, deception or subterfuge).  
16 A person who violates A.R.S. § 36-2531(E) is guilty of a class 4 felony. A.R.S. § 36-  
17 2531(E).

18       7.     The conduct described in the Findings of Fact constitutes a violation of  
19 A.R.S. § 36-2525(H) (Except when dispensed directly by a medical practitioner to an  
20 ultimate user, a controlled substance included in schedule III or IV that requires a  
21 prescription order as determined under state or federal laws shall not be dispensed  
22 without a written or oral prescription order of a medical practitioner).

23       8.     The conduct described in the Findings of Fact constitutes a violation of  
24 A.R.S. § 36-2531(A)(1) (It is unlawful for any person who is subject to A.R.S. § 36-2521  
25 *et seq.* to intentionally or knowingly distribute or dispense a controlled substance in  
26

1 violation of section 36-2525). A person who violates A.R.S. § 36-2531(A)(1) is guilty of  
2 a class 4 felony. A.R.S. § 36-2531(B).

3 9. Respondent's conduct, as described in the Findings of Fact, constitutes a  
4 violation of A.R.S. § 32-1968(A) ("A prescription-only drug shall be dispensed only  
5 under one of the following conditions: (1) By a medical practitioner in conformance with  
6 A.R.S. § 32-1921; (2) On a written prescription order bearing the prescribing medical  
7 practitioner's manual signature; (3) On an electronically transmitted prescription order  
8 containing the prescribing medical practitioner's electronic or digital signature that is  
9 reduced promptly to writing and filed by the pharmacist; (4) On a written prescription  
10 order generated from electronic media containing the prescribing medical practitioner's  
11 electronic or manual signature. A prescription order that contains only an electronic  
12 signature must be applied to paper that uses security features that will ensure the  
13 prescription order is not subject to any form of copying or alteration; (5) On an oral  
14 prescription order that is reduced promptly to writing and filed by the pharmacist; (6) By  
15 refilling any written, electronically transmitted or oral prescription order if a refill is  
16 authorized by the prescriber either in the original prescription order, by an electronically  
17 transmitted refill order that is documented promptly and filed by the pharmacist or by an  
18 oral refill order that is documented promptly and filed by the pharmacist.")

19 10. The conduct and circumstances described above constitutes unprofessional  
20 conduct pursuant to A.R.S. § 32-1901.01(C)(6) ("Committing a felony, whether or not  
21 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-  
22 related offense. In either case, conviction by a court of competent jurisdiction or a plea  
23 of no contest is conclusive evidence of the commission.").

24 11. The conduct and circumstances described above constitute unprofessional  
25 conduct pursuant to A.R.S. § 32-1901.01(C)(8) ("Violating a federal or state law or  
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1 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous  
2 drugs, controlled substances or precursor chemicals when determined by the board or by  
3 conviction in a federal or state court.”).

4 **ORDER**

5 Based upon the above Findings of Fact and Conclusions of Law,

6 IT IS HEREBY ORDERED THAT License No. T010493, which was issued to  
7 Jeffrey Golden to practice as a pharmacy technician trainee in the State of Arizona, is  
8 hereby **REVOKED**. Respondent shall immediately return his pharmacy technician  
9 trainee license to the Board. Respondent shall not reapply for licensure with the Board or  
10 petition for reinstatement of his Arizona pharmacy technician trainee license for a period  
11 of at least five (5) years from the effective date of this Consent Agreement.

12  
13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

14  
15 ARIZONA STATE BOARD OF PHARMACY

16 (Seal)

17 By: \_\_\_\_\_  
18 HAL WAND, R.Ph.  
19 Executive Director  
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1 ORIGINAL OF THE FORGOING FILED  
2 this \_\_\_\_\_ day of \_\_\_\_\_, 2009, with:

3 Arizona State Board of Pharmacy  
4 1700 West Washington, Suite 250  
5 Phoenix, Arizona 85007

6 EXECUTED COPY OF THE FOREGOING MAILED  
7 BY CERTIFIED MAIL  
8 this \_\_\_\_\_ day of \_\_\_\_\_, 2009, to:

9 Jeffrey Golden  
10 3600 N. 6<sup>th</sup> Ave. #10  
11 Phoenix, AZ 85013  
12 Respondent

13 EXECUTED COPY OF THE FOREGOING MAILED  
14 this \_\_\_\_\_ day of \_\_\_\_\_, 2009, to:

15 Elizabeth A. Campbell  
16 Assistant Attorney General  
17 1275 W. Washington Street, CIV/LES  
18 Phoenix, Arizona 85007  
19 Attorneys for the State of Arizona

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